



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: The Development Review Committee and Townsley Schwab, Sr. Director of Planning & Environmental Resources

From: Bill Harbert, Planner *BL*
Janis Vaseris, Biologist

Date: November 3, 2009

Subject: *Request for a Minor Conditional Use Permit at property located at approximate mile marker 69 of the Overseas Highway (US 1), Long Key, real estate numbers 00098530.000200 & 00098530.000700*

Meeting: November 3, 2009

I REQUEST:

The applicant is requesting approval of a minor conditional use permit in order to develop an "Aqua Ranch" facility on the vacant subject property, a development composed of commercial retail and institutional uses. The proposed facility would utilize the existing submerged quarry to raise and study fish and other aquatic wildlife, including Cobia, Peppermint Shrimp and Sea Urchin, as well as educate visitors about the exhibits.

The facility would be open to the public and would include a greeting station, a viewing platform, a 3,600 ft² auditorium tent, and tiki huts. The development shall be constructed in conjunction with a four (4) part phasing plan.



Subject Property and
Surrounding Vicinity
(2006)

Note: the applicant identified real estate number "00388470.000000" as being part of this proposal in the application. Staff has determined that this as an error and has identified the correct real estate number as 00098530.000700.

Applicant:

Property Owner: Zamindari Investments

Lessee: Aqua Ranch

Agent: Douglas Williams

II RELEVANT PRIOR COUNTY ACTIONS:

Code Enforcement Case CE09040149 was opened on April 27, 2009 after a code enforcement officer determined that a 12 foot by 12 foot shed was constructed on the property without the benefit of permit. The case remained open as of the date of this report.

A letter of understanding dated May 27, 2009 was written based on the same proposed development outlined as part of this conditional use application. The letter provided applicable land development regulations that would affect the development as proposed at that time.

III BACKGROUND INFORMATION:

- A. Size of Site (per Property Appraiser records): 827,640 ft² (19 total acres) eastern parcel 11.3 acres and western parcel 7.7 acres
- B. Land Use District: Suburban Residential (SR) and Native Area (NA); all proposed development to take place in the SR portion
- C. Future Land Use Map (FLUM) Designation: Residential Low (RL) and Residential Conservation (RC); all proposed development to take place in the RL portion
- D. Tier Designation: Tier 1
- E. Flood Zone: All proposed development to take place in the AE – EL 8 zone
- F. Existing Use: Vacant
- G. Existing Vegetation / Habitat: Area of proposed development is scarified and water, surrounded by dense native and exotic vegetation
- H. Community Character of Immediate Vicinity: Vacant vegetated lands on the adjacent parcels; residential and commercial areas of the City of Layton located approximately ½ mile to the southwest

IV REVIEW OF APPLICATION:

MCC §110-67 provides the standards which are applicable to all conditional uses. When considering applications for a conditional use permit, the Development Review Committee and the Director of Planning and Environmental Resources shall consider the extent to which:

1 A. *The conditional use is consistent with the purposes, goals, objectives and standards of the*
2 *comprehensive plan and the land development regulations:*

3
4 The proposed development is consistent with the purposes, goals, objectives and
5 standards of the RL future land use category and the SR District.

6
7 Policies from the Monroe County Year 2010 Comprehensive Plan that directly pertain to
8 the proposed use include:

9
10 Policy 101.4.2: The principal purpose of the Residential Low land use category is to
11 provide for low-density residential development in partially developed areas with
12 substantial native vegetation. Low intensity public and low intensity institutional uses
13 are also allowed. In addition, Monroe County shall adopt Land Development
14 Regulations which allow any other nonresidential use that was listed as a permitted
15 use in the Land Development Regulations that were in effect immediately prior to the
16 institution of the 2010 Comprehensive Plan.

17
18 B. *The conditional use is consistent with the community character of the immediate vicinity:*

19
20 A mixed use development containing this type of low-intensity commercial retail and
21 institutional uses, essentially a for-profit research and educational facility, would be
22 compatible with neighboring properties, an area which is composed of conservation,
23 commercial retail and residential uses. Furthermore, the property is relatively isolated
24 with the exception of the City of Layton located approximately ½ mile to the southwest.
25 The City of Layton contains residential, commercial retail and marina uses. Therefore,
26 the proposed development would be consistent with the community character of the
27 immediate vicinity.

28
29 C. *The design of the proposed development minimizes adverse effects, including visual*
30 *impacts, on adjacent properties:*

31
32 The applicant did not submit elevation of the proposed structures as part of this
33 conditional use application. Therefore, design criteria shall be reviewed and approved by
34 the Director of Planning and Environmental Resources prior to the issuance of any
35 building permit for the proposed structures. However, based on the isolation of the site
36 and the descriptions of proposed structures, staff has determined that their visual impact
37 would be minimal. Therefore, the proposed development minimizes adverse effects,
38 including visual impacts, on adjacent properties.

39
40 D. *The proposed use will have an adverse impact on the value of surrounding properties:*

41
42 It is not anticipated that the proposed development will have an adverse impact on the
43 value of the surrounding properties.

44
45 E. *The adequacy of public facilities and services:*

1 1. Roads:

2
3 *Localized Impacts & Access Management:* Access to and from the development shall
4 be approved by the county's traffic consultant and the Florida Department of
5 Transportation (FDOT) (See section I-22, Access Standards).
6

7 *Level of Service (LOS):* A level 1 traffic engineering and planning report is being
8 reviewed by the county's traffic consultant (See section I-23, Traffic Study).
9

10 2. Stormwater: The applicant shall coordinate with the Public Works Division, and, if
11 necessary, the South Florida Water Management District (SFWMD) to determine
12 compliance with all applicable regulations (See section I-9, Surface Water
13 Management Criteria).
14

15 3. Sewer: The applicant shall coordinate with the Florida Department of Health, Florida
16 Department of Environmental Protection and/or the Florida Keys Aqueduct Authority
17 to determine compliance with all applicable regulations (See section I-10, Wastewater
18 Treatment Criteria).
19

20 4. Emergency Management: The applicant shall coordinate with the Office of the Fire
21 Marshal to determine compliance with fire and life safety codes.
22

23 F. *The applicant has the financial and technical capacity to complete the development as*
24 *proposed:*
25

26 Staff has no evidence to support or disprove the applicant's financial and technical
27 capacity.
28

29 G. *The development will adversely affect a known archaeological, historical or cultural*
30 *resource:*
31

32 The proposed development will not adversely affect a known archaeological, historical or
33 cultural resource. In fact, the educational element of the proposed facility would
34 contribute the public education of the Keys cultural and environmental resources.
35

36 H. *Public access to public beaches and other waterfront areas is preserved as part of the*
37 *proposed development:*
38

39 Public access means the ability of the public to physically reach, enter or use beaches and
40 shores. The property is bordered by the open water of the Florida Bay to the northwest.
41

42 The property is under private ownership and due to the nature of the type of shoreline,
43 heavy vegetation and the located proposed developed area in accordance with the open
44 water, it has been determined that unrestricted public access to the waterfront area has not
45 existed. Therefore, the proposed development will not have an adverse impact on public

1 access to a waterfront area. In fact, access to submerged quarry, which currently does not
2 exist, would be available to visitors of the site.

3
4 I. *The project complies with all additional standards imposed on it by the Land*
5 *Development Regulations:*

6
7 1. Residential Rate of Growth Ordinance (ROGO) (§138-19 – §138-28): *Not applicable.*

8
9 There are no existing or proposed residential dwelling units.

10
11 2. **Non-Residential Rate of Growth Ordinance (NROGO) (§138-47 – §138-56):** *In*
12 *compliance following the receipt of required NROGO permit allocations.*

13
14 The parcel is currently vacant. Therefore, all 3,600 ft² of floor area under the
15 proposed covered, permanent structures, including the proposed greeting station and
16 auditorium tent, shall be subject to NROGO permit allocation system. The tiki huts
17 may be exempted from the NROGO permit allocation in accordance with MCC
18 §138-50 if the Director determines that they are for sunshade use only, not enclosed
19 and less than 200 ft² in area. However, no commercial activities may occur under the
20 tiki shade structures if exempted.

21
22 3. Purpose of the SR District (§130-44): *In compliance.*

23
24 The purpose of the SR district is to establish areas of low- to medium-density
25 residential uses characterized principally by single-family detached dwellings. This
26 district is predominated by development; however, natural and developed open space
27 create an environment defined by plants, spaces and over-water views.

28
29 4. **Permitted Uses (§130-94):** *In compliance following the receipt of required minor*
30 *conditional use permit.*

31
32 In the SR District institutional as well as low and medium-intensity commercial retail
33 uses containing floor area of up to 2,500 ft² may both be permitted with a minor
34 conditional use permit from the Planning & Environmental Resources Department
35 and building permits from the Building Department provided that the commercial
36 retail use is able to meet the following criteria:

- 37
38 a) The parcel of land on which the commercial retail use is to be located abuts
39 the right-of-way of US 1 or a dedicated right-of-way to serve as a frontage road
40 for US 1;
41 b) The commercial structure(s) must be located within 200 feet of the
42 centerline of US 1;
43 c) The commercial retail use does not involve the sale of petroleum products;
44 d) The commercial retail use does not involve the outside storage or display of
45 goods or merchandise;

- e) There is no direct access to US 1 from the parcel of land on which the commercial retail use is to be located;
- f) The structure(s) in which the commercial retail use is to be located is separated from the US 1 right-of-way by a class "C" bufferyard;
- g) The structure in which the commercial retail use is to be located is separated from any existing residential structure by a class "C" bufferyard; and
- h) no signage other than one identification sign of no more than four (4) ft² shall be placed in any yard or on the wall of the structure in which the commercial retail use is to be located except for the yard or wall that abuts the right-of-way for US 1.

Based on the Letter of Understanding dated May 27, 2009, the Director of Planning and Environmental Resources has determined that the proposed use is partially institutional and not purely commercial retail. There is an existing direct access drive on US 1, the existing access drive meets the major road access requirements set forth in MCC §114-195. Therefore, Staff has found that criteria e) shall not prohibit the applicant from applying for and receiving a minor conditional use permit.

5. Residential Density and Maximum Floor Area Ratio (§130-157, §130-162 & §130-164): *In compliance.*

Land Use Intensity

Land Use	Floor Area Ratio	Size of Site *	Maximum Allowed	Proposed Amount	Potential Used
Institutional	0.25 FAR **	7.5 acres (326,700 ft ²)	81,675 ft ²	3,480 ft ²	4.3%
Commercial Retail (low-intensity)	n/a ***	7.5 acres (326,700 ft ²)	2,500 ft ²	120 ft ²	4.8%
Total					9.1%

* Although the site is 19 acres, according to our GIS records, only approximately 7.5 acres are designated as SR upland.

** Floor area ratio is total floor area of the non-residential structures (s) divided by the gross area

*** No FAR is given and the maximum per lot stated in MCC §130-94 shall prevail

6. Required Open Space (§118-9, §118-12, §130-157, §130-162 & §130-164): *In compliance.*

The plans submitted with this application do not include open space calculations. However, Staff has determined that the site has adequate open space and shall meet the 50 percent requirement for the entire site and 40 percent for all shoreline setbacks.

7. Minimum Yards (§118-12 & §130-186): *Compliance to be determined.*

The required non-shoreline setbacks are as follows: Front yard – 25 feet; Rear yard – 10 feet; and Side yard – 10/15 feet (where 10 feet is required for one side and 15 feet is the minimum combined total of both sides).

The required shoreline setbacks are as follows: Principal structures shall be set back at least 20 feet as measured from the mean high water (MHW) line along lawfully altered shorelines including manmade canals, channels, and basins. Accessory structures within the shoreline setback shall be constructed at a foundation height not to exceed 18 inches above existing grade and in no event shall the total, combined area of all structures occupy more than 60 percent of the upland area of the shoreline setback.

Staff has found that the principal structure proposed is to be located 22 feet from the MHW line. However, there is a deck existing on the property that is located at the MHW line. Although, no elevations have been provide for this structure, Staff has found that the deck may exceed the 18 inches in height and would either have to be lowered to 18 or fewer inches above grade or be removed.

8. Maximum Height (§130-187): *Compliance to be determined by the Monroe County Building Department prior to issuance of a building permit.*

9. Surface Water Management Criteria (§114-3): *Compliance to be determined by the Public Works Division and/or SFWMD prior to issuance of a building permit.*

The applicant has submitted a letter requesting coordination from Public Works Division and the SFWMD relating to surface water treatment.

10. Wastewater Treatment Criteria (§114-5): *Compliance to be determined by Florida Department of Health and/or Florida Department of Environmental Protection prior to the issuance of a building permit.*

The applicant has submitted a letter requesting coordination from the Florida Department of Health and the Florida Department of Environmental Protection relating to wastewater treatment.

11. **Fencing (§114-20): *Compliance to be determined upon submittal of a building permit application to the Monroe County Building Department..***

The applicant is proposing to install an entry gate and fence as part of phase 2 of the 4 phase project. Fences located in the SR District may be constructed to a height of six feet provided that no other residentially developed property is located within 200 feet of the subject property. The applicant has not identified the height or type of fence proposed.

12. Floodplain Management (§122-1 – §122-6): *Compliance to be determined by the Monroe County Building Department prior to issuance of a building permit.*

13. Energy Conservation Standards (§114-45): *In compliance.*

The development proposal involves no clearing of existing vegetation and the required buffer yards would involve the installation of native plants and shade trees,

which will reduce the requirements for water and maintenance and provide shade for parking areas.

14. Potable Water Conservation Standards (§114-46): *Compliance to be determined by the Monroe County Building Department prior to issuance of a building permit.*

15. Environmental Design Criteria and Mitigation Standards (§118-6, §118-7 & §118-8): *In Compliance.*

The proposed development requires no new clearing of vegetation and is educating the public on marine and vegetative conservation techniques. Therefore, no mitigation shall be required and this facility has been designed to improve surrounding environmental quality.

16. **Required Parking (§114-67): *Not in compliance.***

This proposed development will consist of a mixture of commercial retail and institutional uses. The institutional uses provided on site will provide educational and recreational programs to the public as well as private researchers. MCC §114-67 does not outline parking requirements for institutional uses. Therefore, Staff has found that the proposed use shall be classified as "Commercial Recreation" for the purpose of calculating parking.

The development proposal would be subject to the following off-street parking requirements:

Required Parking			
Specific Use	Multiplier	Proposed	Required Spaces
Commercial Recreation (Outdoor)	5 spaces / 1,000 ft ²	3,480 ft ²	17.4 spaces
Commercial Retail	3 spaces / 1,000 ft ²	120 ft ²	0.3 spaces
Total			17.7 spaces

According to the site plan, 19 off-street parking spaces would be provided. This exceeds the number of parking spaces required.

However, the dimensional/aisle width requirements shall not be met as shown on the proposed site plan. Parking lots providing parallel parking spaces and two-way access aisles have a required aisle width of 24 feet. The width of the proposed aisle has not been identified.

17. **Required Loading and Unloading Spaces (§114-69): *Not in compliance.***

The site plan submitted as part of this application does not show a loading/unloading space. However, the applicant has stated that a revised site plan is being prepared and will include a loading/unloading space.

1
2 **18. Required Landscaping (§114-99 – §114-105): *Not in compliance.***
3

4 The site has a parking requirement of 18 spaces and according to the site plan
5 provided as part of the conditional use application, the applicant will provide 19
6 parking spaces. The parking lot landscape requirement for 24 or fewer spaces in SR
7 District is a Class C Parking Lot Landscaping plan. The Class C Parking Lot
8 Landscaping plan for 19 parking spaces requires the installation of 2 canopy trees and
9 4 shrubs in an area designated to be 340 ft². The applicant has not provided a
10 landscaping plan for Staff to determine compliance.
11

12 **19. Required Buffer-yards (§114-124 – §114-130): *Not in compliance.***
13

14 No structure or land that abuts US 1, a boundary between two different land use
15 districts, or fronts on a major street shall hereafter be developed, used or occupied
16 unless a scenic corridor or bufferyard is provided. No structure other than a fence
17 shall be placed within a required bufferyard, provided that where there is existing
18 native vegetation that will provide for a bufferyard, no clearing will be permitted for
19 the installation for a fence.
20

21 The site is comprised of a basin filled with water surrounded by existing vegetation
22 on all sides including the property line bordering US 1. The applicant did not provide
23 a vegetation survey as part of the conditional use application. However, Staff has
24 found that the majority of existing vegetation located along the US 1 property line
25 exists on either the Florida Department of Transportation right of way or may not
26 count toward buffer yard requirement. Staff has also found that the existing
27 vegetation located behind the proposed parking area may not count toward the district
28 boundary buffer yard requirement.
29

30 A Class E major street buffer yard and a Class A district boundary buffer yard are
31 required as part of this development proposal. The minimum width of Class E buffer
32 yard is 30 feet. Staff has estimated the width of land between the basin of water and
33 the US 1 property line to be less than 30 feet. As a result, the site will have to install
34 the required plantings outlined as part of a Class E buffer yard in the available area
35 between the basin and the property line bringing the buffer yard into compliance to
36 the greatest extent practical.
37

38 **20. Outdoor Lighting (§114-159 – §114-163): *Compliance to be determined by the***
39 ***Monroe County Building Department prior to issuance of a building permit.***
40

41 **21. Signs (§142-1 – §142-7): *Compliance to be determined upon submittal of a***
42 ***building permit application to the Monroe County Building Department.***
43

44 The applicant has expressed the interest in using an existing sign located to the
45 Southwest corner of the property. However, no plans showing the size, location or
46 text has been submitted as part of this application.

1
2 **22. Access Standards (§114-195 – §114-201): *Compliance to be determined.***
3

4 There is an existing access drive to the site from US 1 located to the Southeast corner
5 of the property. According to the site plan, the access would not be reconfigured.
6

7 A traffic study by Crossroads Engineering indicates that the development would
8 generate no new trips. The county's traffic consultant, Raj Shanmugam of URS
9 Corporation, is reviewing the information found in the level 1 traffic letter submitted
10 as part of this application.
11

12 **23. Chapter 533, Florida Statutes: *Full compliance to be determined upon submittal to***
13 ***Building Department.***
14

15 **Other Issues**
16

- 17 1. The Applicant has requested that this project be approved as outlined within the
18 proposed 4 phase plan. According to the application, the construction of the phased
19 development would allow the applicant to operate out of temporary structures that
20 will be required to be removed on a daily basis, while applying for NROGO
21 allocations to permit the construction of the permanent structure and coordinating
22 with the State of Florida Department of Environmental Protection to obtain permits
23 for the docks.
24

25 Phase 1 will allow the applicant to install electricity to this site, setup two 10 ft x 10 ft
26 temporary tents and install all required parking.
27

28 Phase 2 will be carried out once ACOE and FDEP permits for the docks have been
29 obtained. This will allow the applicant to apply for building permits to install the
30 docks, netting systems, entry gate and fencing.
31

32 Phase 3 will be carried out once the first NROGO allocations are awarded to the
33 applicant. The applicant is proposing to construct 1,600 ft² of 3,600 ft² total
34 nonresidential floor area requested as part of phase 3.
35

36 Phase 4 will be carried out once the final NROGO allocations are awarded to the
37 applicant. This will allow the applicant to construct the remaining 2,000 ft² on
38 nonresidential floor area.
39

40 The applicant does not specify a projected date of project completion. However, due
41 to potential competition, receipt of the required NROGO permit allocations is not
42 guaranteed for any given allocation period. Therefore, a date of completion would be
43 difficult to predict.
44

45 Staff has reviewed the Applicant's request and recommends that, if approved, the
46 development order be valid for two (2) years from the issuance of the initial building

1 permit. In the event the applicant is unable to acquire the necessary NROGO permit
2 allocations time extensions would need approval from the Planning Commission.
3

- 4 2. Letters of support for the proposed development were provided as part of this
5 conditional use application from State Representative Ron Saunders, Congress
6 Woman Ileana Ros-Lehtinen, Florida Keys Community College Director of Marine
7 Sciences Dr. Patrick Rice and South Eastern Aquatechnologies, Inc President Dr.
8 Robert Bullis.
9

10 V RECOMMENDED ACTION:
11

12 Staff recommends **APPROVAL** to the Director of Planning & Environmental Resources if
13 all the following conditions are met:
14

- 15 A. Prior to the issuance of a development order, the applicant shall submit a signed and
16 sealed, scaled site plan from a registered engineer or architect that shows the setbacks
17 of all structures in orientation to the property lines, basins of water and centerline of
18 US 1. The site plan must also include parking space and access aisle widths,
19 directional flows and a loading zone.
20
21 B. Prior to the issuance of a development order, the applicant shall submit a landscaping
22 plan that outlines buffer yards and parking lot landscaping designs as well as types of
23 plantings to be used.
24
25 C. Prior to the issuance of a development order, the county's traffic consultant must
26 approve the findings of the traffic study submitted in the application.
27
28 D. Prior to the issuance of a development order, the applicant shall provide a letter of
29 coordination from the Florida Department of Transportation concerning access.
30
31 E. Prior to the issuance of a development order, the applicant shall provide a letter of
32 coordination from the Public Works Division and if necessary the South Florida
33 Water Management District concerning surface water management.
34
35 F. Prior to the issuance of a development order, the applicant shall provide a letter of
36 coordination from the Office of the Fire Marshal concerning compliance with the fire
37 and life safety codes.
38
39 G. Prior to the issuance of a building permit, the applicant shall provide a letter of
40 coordination from the Florida Department of Health and if necessary the Florida
41 Department of Environmental Protection concerning wastewater treatment.
42
43 H. Prior to the issuance of a building permit for permanent structure(s), the applicant
44 shall receive all required NROGO allocations for the proposed square footage.
45

- 1 I. Prior to the issuance of a building permit, the proposed development shall be found in
2 compliance by the Monroe County Building Department, the Monroe County
3 Floodplain Administrator and the Monroe County Office of the Fire Marshal.
4

5 VI PLANS REVIEWED:
6

- 7 A. Site Plan (Stage-1) Hand Drawn by Allen Billingsley, dated September 20, 2004;
8 B. Site Plan (Stage-2) Hand Drawn by Allen Billingsley, dated September 20, 2009;
9 C. Site Plan (Stage-3) Hand Drawn by Allen Billingsley, dated August 20, 2009;
10 D. Site Plan (Stage-4) Hand Drawn by Allen Billingsley, dated August 20, 2009;
11 E. Level 1 Traffic Study by Crossroads Engineering, dated October 2, 2009